

10/602,286
60130-1705REMARKS

Applicant has amended the specification and the claims. Except for those changes discussed below none of the amendments made to the specification and the claims are connected in any way to any rejection in this application.

Claims 4 and 13 were rejected as being indefinite. Claims 4 and 13 have been amended to comply with the 35 U.S.C. §112. Also, a revised drawing adding reference numeral 50 to Figure 2 is submitted.

Claims 1-17 have been rejected as being obvious over Tauney (U.S. 4,679,841). Claim 1 recites a support assembly that includes an arm including a first segment and a second segment pivotally mounted about a pivot, and a spring assembly pivotally attached to the first segment of the arm and biasing the second segment against the vehicle closure member.

As the office action states, Tauney does not disclose an arm that is biased against a vehicle closure member. Instead Tauney discloses a pop up device including a plate (9) attached to a hinge (10) for moving a first arm (12) against a second arm (15) that in turn contacts a surface of the vehicle (18). The plate (9) is never against a vehicle closure member, or the vehicle. Yet, the office action states that it is merely a design choice to bias a roller against a vehicle closure member. This is not the case.

Tauney does not support such an assertion. The limitations recited in claims 1 and 11 are not a mere design choice and are not supported by any evidence provided by the Examiner. Applicant requests that the Examiner provide evidence supporting this assertion. Tauney and the knowledge within the art does not disclose or suggest the limitations of the claimed invention. Accordingly, this rejection is improper and Applicant requires withdrawal of the rejection to claims 1-17.

Further, Tauney does not disclose or suggest the features recited in claims 1 and 11. The plate (9) of Tauney is attached to the hinge (10) and does not include a roller. A roller is attached to an additional arm (12). The plate (9) does not move against either the vehicle or the vehicle closure member. The arms (12) and (15) do that. A plate attached to a hinge, that does not ever contact either the vehicle or the closure member does not suggest a second segment of an arm biased against a vehicle closure member. The limitation of a second segment of an arm biased against a closure member as recited in claims 1 and 11 is not disclosed or suggested by Tauney. Accordingly, the rejection to claims 1-17 is improper and should be withdrawn.

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Additionally, Claim 4 includes the limitation of an extension portion extending transversely from the second segment of the arm. Tauney does disclose or suggest an extension portion.

Claims 8 and 17 include the limitation of a roller attached to the second segment of the arm. Tauney includes a roller attached to arms (15) and (12) but does not disclose or suggest attaching the roller to a second segment of the arm.

Claim 13 includes the limitation of an extension portion extending transversely from the second segment to contact the vehicle closure member when the assembly is attached to the vehicle closure member. Tauney does not disclose or suggest an extension portion, or contact with the closure member.

Claim 14 includes the limitation that the second segment is longer than the first segment. This is not disclosed in Tauney, where the second segment as defined by the Examiner, is smaller than the first segment. Claim 14 recites a specific relationship between the first segment and the second segment, no matter what length may be required for a specific application. Tauney does not disclose the second segment being a longer than the first segment.

Claim 16 recites the specific limitation that the first segment is biased downward and that the second segment is biased upward against the vehicle closure. Tauney does not disclose the second segment being biased against the vehicle closure, or the first segment being biased downwardly.

Applicant has added new claims 18-22. New claims 18 and 19 include the limitation that the first segment and the second segment extend in opposing directions from the pivot. The first and second segment as identified by the Examiner in Tauney extends from the pivot in the same direction.

New independent claim 20 includes the limitation of an arm pivotally mountable about a pivot with the arm including a first segment extending in a first direction from the pivot and a second segment extending in a second direction from the pivot opposite the first direction. Claim 21 includes the limitation that the first segment includes a length smaller than a length of the second segment. Claim 22 includes an extension portion extending transversely from the second segment. None of these limitations are disclosed or suggested by Tauney.

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Claims 1-22 are in condition of allowance. All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance, and a Notice to that effect is earnestly solicited. Applicant believes that no additional fees are necessary, however, the Commissioner is authorized to charge Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds for any additional fees or credit the account for any overpayment.

Respectfully Submitted,

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